

INDIAN LAND WORKING GROUP
RESOLUTION NO. 2005-101

A RESOLUTION TO SUPPORT DISTRIBUTION OF FUNDS DERIVED FROM LITIGATION OR SETTLEMENT FROM *COBELL V. NORTON* BE PERFORMED BY THE FEDERAL COURTS AND TO SUPPORT ILWG'S ACTIVE WORK WITH THE SENATE INDIAN AFFAIRS COMMITTEE AND OTHERS

WHEREAS, the Indian Land Working Group (ILWG) is the largest national organization representing the interests of Indian landowners, and

WHEREAS, one of the principal concerns of the ILWG is to ensure that the United States complies with its trust responsibilities owed to individual Indian landowners and is held accountable for past breaches of its trust responsibilities, and

WHEREAS, ILWG has followed the *Cobell v. Norton* case with keen interest since its filing and supports the goals and achievements of the litigation, and

WHEREAS, ILWG is aware that the Courts have already held that each beneficiary has a right to a full accounting of "all funds" and "all trust assets" held in trust by the United States and that the United States has breached its trust responsibilities by not providing that accounting for over a century, and

WHEREAS, ILWG is also aware the government's potential liability may be in excess of \$100 billion and that the government's own contractors have conceded that at least \$10-40 billion is owed, and

WHEREAS, ILWG is grateful that congressional leadership has expressed an interest in resolving the claims in *Cobell* in a fair manner, and

WHEREAS, ILWG supports resolution of the *Cobell* case, but only if the class of Indian beneficiaries receive a fair settlement and the distribution is performed in a fair way and with due process as specifically defined by law, and

WHEREAS, ILWG supports the named representatives of the class and their counsel in making decisions for the class on what is a fair settlement and a fair manner to distribute the funds, and

WHEREAS, Senate Bill No. 1439, a bill "To provide for Indian trust asset management reform and resolution of the historical accounting claims and for other purposes" has been introduced in the Senate by Senator McCain, and

WHEREAS, ILWG does not support the Department of Treasury or other Executive Branch entities to distribute funds derived from litigation or settlement thereof and ILWG does support the distribution of funds to individual Indians by the federal courts, and

WHEREAS, ILWG believes that S.1439, in present form, fails to address genuine trust reform in a manner beneficial to individual landowners, and

WHEREAS, ILWG is alarmed by an approximate 800% increase in the probate backlog (currently 26,000-30,000 cases) since 1996, separate and apart from past and future posting backlogs generated by the current probate log jam, and

WHEREAS, the probate backlog is a striking example of trust reform's inability to cure systemic deficiencies, and

WHEREAS, as the Cobell Court held on July 12, 2005 that trust information from the Department of the Interior is not reliable, it would not be prudent to rely on such information in establishing an appropriate amount to resolve the Cobell case;"

WHEREAS, based on these examples ILWG now considers the appointment of a receiver an option to be explored as one way to ensure true reform and financial and legal compliance for the individual Indian beneficiary, and

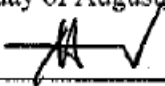
WHEREAS, ILWG agrees that to achieve the goal of resolving in a fair and equitable way the historical accounting claims of Indian landowners, S.1439 must be substantially revised so that it is beneficial to individuals, tribes, and the government, and

NOW THEREFORE BE IT RESOLVED, that ILWG supports the option that any distribution pursuant to a congressional settlement under S.1439 Title I or otherwise should be performed by a federal court so that beneficiaries have actual notice and an opportunity to be heard under well established due process principles of law, and

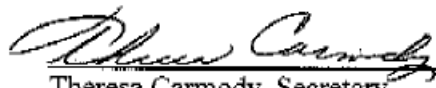
BE IT FURTHER RESOLVED that ILWG will examine all additional titles in S.1439 to ensure true and effective trust reform, and

BE IT FINALLY RESOLVED that ILWG will actively work with the Senate Indian Affairs Committee and recommend that the Committee take all necessary action, including legislative action developed upon the basis of *bona fide* landowner input, to cause concrete reform of trust allotment management, administrative and distribution systems within the Department of Interior.

PASSED AND APPROVED by ILWG Board this 30th day of August, 2005.


Austin Nunez, Chairperson
Indian Land Working Group

ATTEST:


Theresa Carmody, Secretary
Indian Land Working Group